

Internal Revenue Service

Department of the Treasury
Washington, DC 20224

Number: **201418040**

Release Date: 5/2/2014

Index Number: 9100.22-00, 992.02-00

Third Party Communication: None
Date of Communication: Not Applicable

Person To Contact:
, ID No.

Telephone Number:

In Re:

Refer Reply To:
CC:INTL:B06
PLR-142051-13
Date:
January 27, 2014

TY:

Legend

Taxpayer =
Corporation =
Firm =
Date 1 =
Date 2 =
Date 3 =
Individual 1 =
Individual 2 =
Accountant =
Attorney =

Dear :

This responds to a letter dated August 20, 2013, submitted by Firm requesting that the Internal Revenue Service ("Service") grant Taxpayer an extension of time under Treas. Reg. §§ 301.9100-1 and 301.9100-3 to file Form 4876-A ("Election To Be Treated as an Interest Charge DISC") for Taxpayer's first taxable year.

The rulings contained in this letter are based upon information and representations submitted by Taxpayer and Firm, and accompanied by affidavits and penalty of perjury statements executed by appropriate parties. This office has not verified any of the material submitted in support of the request for rulings. It is subject to verification on examination.

FACTS

Taxpayer is a domestic corporation with a calendar taxable year. Taxpayer was formed on Date 1 to serve as an interest charge domestic international sales corporation ("IC-DISC") and has established a commission arrangement with Corporation. Taxpayer and Corporation are owned by Individual 1 and Individual 2. The share ownership of Taxpayer is identical to the share ownership of Corporation.

Taxpayer was formed as a result of discussions between Individual 1, Individual 2, and Accountant about establishing an IC-DISC to provide foreign sales export assistance to Corporation. Pursuant to Accountant's recommendation, Taxpayer was formed on Date 1 by Attorney, Taxpayer's outside corporate counsel. Taxpayer believed that either Accountant or Attorney would perform all necessary actions to cause Taxpayer to be treated as an IC-DISC from the date of its formation. Accountant believed that Attorney would file a timely Form 4876-A to have Taxpayer treated as an IC-DISC. Attorney was not aware that Taxpayer was required to file a timely Form 4876-A and did not file the form.

On or about Date 2, Taxpayer filed Form 1120 IC-DISC ("Interest Charge Domestic International Sales Corporation Return") for its first taxable year. In a letter dated Date 3, the Service notified Taxpayer that its Form 1120 IC-DISC could not be processed because there was no record of Taxpayer having filed a Form 4876-A. At that time, Taxpayer determined that neither Accountant nor Attorney had filed a Form 4876-A on its behalf. Taxpayer sought advice from Firm, which advised Taxpayer to submit a request for relief under Treas. Reg. § 301.9100-3 for an extension of time to file the IC-DISC election effective Date 1.

LAW AND ANALYSIS

Section 992(b)(1)(A) provides that an election by a corporation to be treated as a DISC¹ shall be made by such corporation for a taxable year at any time during the 90-day period immediately preceding the beginning of the taxable year, except that the Secretary may give his consent to the making of an election at such other times as he may designate.

Section 992(b)(1)(B) provides that such election shall be made in such manner as the Secretary shall prescribe and shall be valid only if all persons who are shareholders in such corporation on such first day of the first taxable year for which such election is effective consent to such election.

Temp. Treas. Reg. § 1.921-1T(b)(1) provides, in part, that a corporation electing IC-DISC status must file Form 4876-A and that a corporation electing to be treated as an

¹ As used in this letter, the terms "IC-DISC" and "DISC" have the same meaning.

IC-DISC for its first taxable year shall make its election within 90 days after the beginning of that year.

Treas. Reg. § 301.9100-1(c) provides, in part, that the Commissioner, in exercising the Commissioner's discretion, may grant a reasonable extension of time under the rules set forth in Treas. Reg. §§ 301.9100-2 and 301.9100-3 to make a regulatory election under all subtitles of the Code except subtitles E, G, H, and I.

Treas. Reg. § 301.9100-1(b) provides that a regulatory election is an election whose due date is prescribed by a regulation published in the Federal Register, or a revenue ruling, revenue procedure, notice, or announcement published in the Internal Revenue Bulletin. For this purpose, an election includes an application for relief in respect of tax.

Treas. Reg. § 301.9100-3(a) provides that requests for extensions of time for regulatory elections that do not meet the requirements of Treas. Reg. § 301.9100-2 (automatic extensions) must be made under the rules of Treas. Reg. § 301.9100-3. Requests for relief subject to Treas. Reg. § 301.9100-3 will be granted when the taxpayer provides the evidence (including affidavits described in Treas. Reg. § 301.9100-3(e)) to establish to the satisfaction of the Commissioner that the taxpayer acted reasonably and in good faith, and that the grant of relief will not prejudice the interests of the Government.

Based on the facts and representations submitted with Taxpayer's ruling request, we conclude that Taxpayer satisfies Treas. Reg. § 301.9100-3(a). Accordingly, Taxpayer is granted an extension of time of 60 days from the date of this ruling letter to file Form 4876-A. Such filing will be treated as a timely election to be treated as an IC-DISC for Taxpayer's first taxable year.

The granting of an extension in this ruling letter is not a determination that Taxpayer is otherwise eligible to make the election or to claim IC-DISC status or benefits. See Treas. Reg. § 301.9100-1(a). Taxpayer should attach a copy of this ruling letter to its Federal income tax return for the taxable years to which this letter applies.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent. Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representative.

Sincerely,

Christopher J. Bello
Chief, Branch 6
Office of Associate Chief Counsel (International)

cc: